

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	07-00102-02-CR-W-HFS
SPENCER HOLMES,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on January 30, 2008. Defendant Spencer Holmes appeared in person and with retained counsel Dan Ross. The United States of America appeared by Assistant United States Attorney Christina Tabor.

I. BACKGROUND

On March 14, 2007, an indictment was returned charging defendant with one count of conspiracy to possess with intent to distribute cocaine and crack cocaine, in violation of 21 U.S.C. § 846; one count of possession with intent to distribute crack cocaine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A); one count of possession with intent to distribute crack cocaine and cocaine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and (b)(1)(C), and one count of criminal forfeiture pursuant to 21 U.S.C. § 853(a). Co-defendant Maurice Matches pled guilty on October 10, 2007, and co-defendant Frank Smith pled guilty on October 2, 2007.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Ms. Tabor announced that she will be the trial counsel for the government. The case agent to be seated at counsel table is Detective Don Stanze, KCPD.

Mr. Ross announced that he will be the trial counsel for defendant Spencer Holmes. Mr. Ray Sousley may also appear.

III. OUTSTANDING MOTIONS

There is currently pending for ruling by the district judge a motion to enforce plea agreement, filed by defendant on October 8, 2007 (document number 82), and a motion for additional time to file a supplemental motion to enforce plea agreement, filed by defendant on December 12, 2007 (document number 98).

IV. TRIAL WITNESSES

Ms. Tabor announced that the government intends to call 17 witnesses without stipulations or 10 witnesses with stipulations during the trial.

Mr. Ross announced that defendant Spencer Holmes intends to call 5 witnesses during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Ms. Tabor announced that the government will offer approximately 64 exhibits in evidence during the trial.

Mr. Ross announced that defendant Spencer Holmes will offer approximately 5 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Ross announced that defendant Spencer Holmes will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Ross stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to chain of custody and chemist's reports.

IX. TRIAL TIME

Counsel were in agreement that this case will take 3 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed May 22, 2007, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by January 30, 2008;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, February 6, 2008;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, February 6, 2008. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on February 11, 2008.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
January 30, 2008

cc: The Honorable Howard F. Sachs
Ms. Christina Tabor
Mr. Dan Ross
Mr. Jeff Burkholder